

BEFORE THE  
CALIFORNIA STATE BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS

In the Matter of the Petition for Reinstatement of  
Certificate to Practice Pharmacy of:

CHU HUU VU  
Oroville, California

Pharmacist License No. RPH 39728

Petitioner.

Case No. 2236-B

OAH No. N2007040268

**DECISION**

This matter was heard before the California State Board of Pharmacy on April 19, 2007, in Sacramento, California. Board members present and participating in the hearing were: William Powers, President; Dr. Kenneth H. Schell, Vice President; Dr. Ruth M. Conroy; D. Timothy Dazé; Stanley W. Goldenberg; Robert Graul; Dr. Clarence K. Hiura; Henry A. Hough; Dr. Susan L Ravnar; and Dr. Robert E. Swart. Robert Walker, Administrative Law Judge, State of California, Office of Administrative Hearings, presided.

Joshua A. Room, Deputy Attorney General, appeared pursuant to Government Code section 11522.

The petitioner, Chu Huu Vu, appeared in propria persona.

The matter was submitted on April 19, 2007.

**ISSUE**

Should petitioner's certificate to practice pharmacy be reinstated?

## FACTUAL FINDINGS

### *BACKGROUND*

1. On August 7, 1986, the State Board of Pharmacy issued pharmacist license number RPH 39728 to the petitioner, Chu Huu Vu.

2. In January of 1998, petitioner was convicted of a violation of 18 United States Code section 1341.2, aiding and abetting mail fraud. The conviction was on a plea of guilty. The court sentenced petitioner to 24 months in prison and three years of supervised release. The court also assessed a penalty of \$150.

3. Petitioner's conviction resulted from incidents that occurred between January of 1991 and November of 1993. Petitioner was the pharmacist-in-charge of the Ulric Pharmacy in San Diego. The owner of the pharmacy, petitioner, and others conspired to submit fraudulent claims to Medi-Cal, and Medi-Cal paid more than \$1 60,000 on those claims.

4. Petitioner contends that, in fact, he did not participate in the conspiracy and did not engage in any crime. He says he became suspicious that the owner of the pharmacy was engaging in fraud and told the owner that he did not want to work there any longer. Petitioner, nevertheless, continued to work at Ulric Pharmacy and, along with the owner, was charged with mail fraud. Petitioner said he pled guilty on the advice of his attorney but now feels that the attorney gave him poor advice. Petitioner says the owner of the pharmacy had retained the attorney, and petitioner questions whether the attorney had petitioner's interest at heart. Petitioner, of course, cannot collaterally attack the conviction. He stands convicted.

5. By an accusation dated January 19, 2000, Patricia F. Harris, Executive Officer of the Board of Pharmacy, alleged the federal conviction and sought discipline against petitioner's license.

6. Petitioner and the board entered into a stipulation pursuant to which petitioner admitted the allegations in the accusation and the board revoked his license. As a further stipulation, the parties agreed that, as a condition precedent to any petition for reinstatement of petitioner's license, he was required to pay the board \$8,000 in cost recovery. The stipulated settlement and disciplinary order became effective on March 6, 2001.

7. Petitioner served the two years in prison, and, on February 2, 2003, he successfully completed this three years of supervised release.

8. This is petitioner's second petition to the board requesting reinstate of his license. His first petition was dated July 15, 2004. By a decision dated December 28, 2004, the board denied that petition.

9. Petitioner's current petition for reinstatement is dated December 12, 2006. The hearing in the present matter is on that petition.

10. On December 23, 2006, petitioner paid the \$8,000 in cost recovery.

#### *PROFESSIONAL DEVELOPMENT*

11. Petitioner is 75 years old. His most recent employment as a pharmacist was in 1998.

12. Petitioner has satisfied the board's continuing education requirements.

13. In 2006 petitioner completed 43 hours of board approved continuing education.

14. Petitioner testified that, in addition to satisfying continuing education requirements, he subscribes to and studies a number of pharmacy journals.

#### *REHABILITATION*

15. Because petitioner insists he actually was not guilty of the crime to which he pled, he does not offer extensive evidence of rehabilitation. While he may not collaterally attack the conviction, it is not inappropriate for him to offer this explanation of the paucity of his evidence of rehabilitation.

16. There is evidence, however, that petitioner has made substantial progress toward rehabilitation. He completed his prison term and supervised release. It has been nine years since petitioner's conviction and 14 years since the incidents that gave rise to the conviction. It has been more than four years since he completed his period of supervised release. And there is no evidence of petitioner's having engaged in any other wrongdoing. Petitioner is married and has a young daughter. From his testimony, it appears that he has a stable family relationship. Petitioner and his family live on his wife's modest income, but he, nevertheless, paid the board's cost recovery.

#### *LETTERS OF RECOMMENDATION*

17. Viet Thuc Truong, Pharm. D., is a licensed pharmacist in California. Dr. Truong wrote a letter with a note added to it indicating that it was written on November 20, 2006. He wrote that petitioner is "a highly motivated and quality-driven professional." Dr. Truong recommends that petitioner's license be reinstated.

18. Hien Nguyen is a licensed pharmacist in California. He recommends that petitioner's license be reinstated and describes petitioner as a perfect professional who is "committed, dedicated, and hardworking."

19. George Winford Cole wrote an undated letter in which he said he had known petitioner for five years. Mr. Cole finds petitioner to be of good moral character and wrote that petitioner is always ready to help people understand how to care for themselves.

20. Kenneth A. Morgan wrote a letter dated November 20, 2006. He has known petitioner for five years. He wrote that petitioner is always willing to give health advice to friends and neighbors. Mr. Morgan has a degree in electrical engineering and has discussed scientific subjects with petitioner. He wrote that petitioner is knowledgeable and honest and a person of integrity and good character.

21. All four of the above letter writers were aware that the board had disciplined petitioner's license.

22. Petitioner also submitted a letter from Albert L. Picchioni, Ph.D., the associate dean of the pharmacy school from which petitioner was graduated in 1984. Dr. Picchioni praises petitioner highly. The letter, however, is dated 1984 and has no bearing on petitioner's rehabilitation.

### LEGAL CONCLUSIONS

1. By reason of the matters set forth in Findings 15 through 21, it is determined that petitioner has made substantial progress toward rehabilitation and that it would not be against the public interest to issue a probationary license. Petitioner completed his prison term and supervised release. It has been nine years since petitioner's conviction and 14 years since the incidents that gave rise to the conviction. There is no evidence of petitioner's having engaged in any other wrongdoing. It appears that he has a stable family relationship. And while petitioner and his family live on his wife's modest income, he, nevertheless, paid the board's cost recovery. Finally, the letters of recommendation are reassuring.

2. By reason of the matters set forth in Findings 12 through 14, it is determined that petitioner has satisfactorily maintained his knowledge as a pharmacist.

3. Petitioner's license should be reinstated subject to appropriate conditions of probation. One appropriate condition is that petitioner take and pass the California Pharmacy Jurisprudence Examination. Even if one were to assume that petitioner did not participate in the mail fraud, he, nevertheless, engaged in an egregious failure to discharge the responsibility of a pharmacist-in-charge. After becoming suspicious that the owner of the pharmacy was defrauding Medi-Cal, petitioner continued to work at the pharmacy without notifying anyone. Petitioner's failure to discharge his responsibility would have been reprehensible no matter how little money was involved, but it is worth noting that in this case a substantial amount was involved. Medi-Cal paid more than \$160,000 on the fraudulent claims. Thus, it is appropriate to have further assurance that petitioner has come to understand the responsibilities of a pharmacist.

## ORDER

The petition for reinstatement is granted. If petitioner satisfies all statutory and regulatory requirements for issuance of a license, the board shall reinstate his license. The license shall immediately be revoked. The revocation shall be stayed, however, for five years, and petitioner shall be placed on probation on the following conditions:

1. Petitioner shall obey all state and federal laws and regulations substantially related to or governing the practice of pharmacy. Petitioner shall report any of the following occurrences to the board, in writing, within 72 hours of such occurrence: an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state or federal food and drug laws, or state or federal controlled substances laws; a plea of guilty or nolo contendere in any state or federal criminal proceeding to any criminal complaint, information, or indictment; a conviction of any crime; discipline, citation, or other administrative action filed by any state or federal agency that involves petitioner's license or that is related to the practice of pharmacy or the manufacturing, obtaining, handling, distributing, billing for, or charging for any drug, device, or controlled substance.
2. Petitioner shall report to the board quarterly. The report shall be made either in person or in writing, as directed. Petitioner shall state under penalty of perjury whether there has been compliance with all the terms and conditions of probation. If the final probation report is not made as directed, probation shall be extended automatically until such time as the final report is made and accepted by the board.
3. On receipt of reasonable notice, petitioner shall appear in person for interviews with the board on request at various intervals at a location to be determined by the board. Failure to appear for a scheduled interview without prior notification to board staff shall be considered a violation of probation.
4. Petitioner shall cooperate with the board's inspectional program and in the board's monitoring and investigation of petitioner's compliance with the terms and conditions of his or her probation. Failure to comply shall be considered a violation of probation.
5. Petitioner shall provide evidence of efforts to maintain skill and knowledge as a pharmacist as directed by the board.
6. Petitioner shall notify all present and prospective employers of this decision and the terms, conditions, and restrictions imposed on petitioner by this decision. Within 30 days of the effective date of this decision, and within 15 days of petitioner undertaking new employment, petitioner shall cause his or her direct supervisor, pharmacist-in-charge, and/or owner to report to the

board in writing acknowledging that the employer has read this decision. If petitioner works for or is employed by or through a pharmacy employment service, petitioner must notify the direct supervisor, pharmacist-in-charge, and/or owner at every pharmacy of the terms and conditions of this decision in advance of petitioner's commencing work at each pharmacy. "Employment" within the meaning of this provision shall include any full-time, part-time, temporary, relief, or pharmacy management service as a pharmacist, whether petitioner is considered an employee or independent contractor.

7. Petitioner shall not supervise any intern pharmacist or perform any of the duties of a preceptor. Petitioner shall not be the pharmacist-in-charge of any entity licensed by the board unless otherwise specified in this order.
8. Petitioner shall pay the costs associated with probation monitoring as determined by the board each year of probation. Such costs shall be payable to the board at the end of each year of probation. Failure to pay such costs shall be considered a violation of probation.
9. Petitioner shall, at all times while on probation, maintain an active, current license with the board, including any period during which suspension or probation is tolled. If petitioner's license expires or is cancelled by operation of law or otherwise, on renewal or reapplication, petitioner's license shall be subject to all terms and conditions of this probation not previously satisfied.
10. Following the effective date of this decision, should petitioner cease practice due to retirement or health, or be otherwise unable to satisfy the terms and conditions of probation, petitioner may tender his or her license to the board for surrender. The board shall have the discretion whether to grant the request for surrender or take any other action it deems appropriate and reasonable. On formal acceptance of the surrender of the license, petitioner will no longer be subject to the terms and conditions of probation. On acceptance of the surrender, petitioner shall relinquish his or her pocket license to the board within 10 days of notification by the board that the surrender is accepted. Petitioner may not reapply for any license from the board for three years from the effective date of the surrender. Petitioner shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board.
11. Petitioner shall notify the board in writing within 10 days of any change of employment. Said notification shall include the reasons for leaving and/or the address of the new employer, supervisor, or owner and work schedule if known. Petitioner shall notify the board in writing within 10 days of a change in name, mailing address, or phone number.

12. Should petitioner, regardless of residency, for any reason cease practicing pharmacy for a minimum of 80 hours per calendar month in California, petitioner must notify the board in writing within 10 days of cessation of the practice of pharmacy or the resumption of the practice of pharmacy. Such periods of time shall not apply to the reduction of the probation period. It is a violation of probation for petitioner's probation to remain tolled pursuant to the provisions of this condition for a period exceeding three years. "Cessation of practice" means any period of time exceeding 30 days in which petitioner is not engaged in the practice of pharmacy as defined in Section 4052 of the Business and Professions Code for at least 80 hours a calendar month.
13. If petitioner violates probation in any respect, the board, after giving petitioner notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If a petition to revoke probation or an accusation is filed against petitioner during probation, the board shall have continuing jurisdiction, and the period of probation shall be extended until the petition to revoke probation or accusation is heard and decided.
14. If petitioner has not complied with any term or condition of probation, the board shall have continuing jurisdiction over petitioner, and probation shall automatically be extended until all terms and conditions have been satisfied or the board has taken other action as deemed appropriate to treat the failure to comply as a violation of probation, to terminate probation, and to impose the penalty that was stayed.
15. Petitioner shall take and pass the California Pharmacy Jurisprudence Examination (CPJE) as scheduled by the board after the effective date of this decision at petitioner's own expense. If petitioner fails to take and pass the examination within six months after the effective of this decision, petitioner shall be suspended from practice on written notice. Petitioner shall not resume the practice of pharmacy until he or she takes and passes the CPJE at a subsequent examination and is notified, in writing, that he or she has passed the examination. During suspension, petitioner shall not enter any pharmacy area. During suspension, petitioner shall not enter any portion of the licensed premises of a wholesaler, veterinary food-animal drug retailer, any other distributor of drugs, any manufacturer, or any place where dangerous drugs and devices or controlled substances are maintained. During suspension, petitioner shall not practice pharmacy or do any act involving drug selection, selection of stock, manufacturing, compounding, dispensing, or patient consultation. During suspension, petitioner shall not manage, administer, or be a consultant to any licensee of the board. During suspension, petitioner shall not have access to or control the ordering, manufacturing or dispensing of dangerous drugs and controlled substances. During suspension, petitioner shall not engage in any activity that requires the professional judgment of a pharmacist. During suspension, petitioner shall not direct or control any

aspect of the practice of pharmacy. During suspension, petitioner shall not perform the duties of a pharmacy technician or an exemptee for any entity licensed by the board. Subject to the above restrictions, petitioner may continue to own or hold an interest in any pharmacy in which he or she holds an interest at the time this decision becomes effective unless otherwise specified in this order. Failure to take and pass the examination within one year of the effective date of this decision shall be considered a violation of probation. Suspension and probation shall be extended until petitioner passes the examination and is notified in writing.

16. On petitioner's successful completion of probation, his or her license will be fully restored.

DATED: May 31, 2007

Effective Date: June 6, 2007

A handwritten signature in cursive script, appearing to read "William Powers", is written over a horizontal line.

WILLIAM POWERS

President

California State Board of Pharmacy



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of the State of California  
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Attorneys for Complainant

**BEFORE THE  
BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Chu Huu Vu  
C/O Healthcare Pharmacy  
P.O. Box 712663  
San Diego, CA 92171

License No. RPH 39728

Respondent.

Case No. 2236-B

OAH No. L-2000050335

**STIPULATED SETTLEMENT AND  
DISCIPLINARY ORDER**

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the  
above-entitled proceeding that the following matters are true:

**PARTIES**

1. Complainant Patricia F. Harris is the Executive Officer of the Board of  
Pharmacy who brought this action solely in her official capacity and is represented in this matter  
by Bill Lockyer, Attorney General of the State of California, by Linda K. Schneider, Deputy  
Attorney General.

2. Respondent Chu Huu Vu ("Respondent") is represented in this proceeding  
by attorney Robert F. Hahn, Law Offices of Gould & Hahn, whose address is 5801 Christie  
Avenue, Suite 385, Emeryville, CA 94608.

1                   3.       On or about August 7, 1986, the Board issued Original Pharmacist  
2 License Number RPH 39728 to Chu Huu Vu to practice pharmacy in California. That  
3 registration is in full force and effect until January 31, 2002.

4                                   JURISDICTION

5                   4.       Accusation No. 2236-B was filed before the Board of Pharmacy of the  
6 Department of Consumer Affairs ("Board") and is currently pending against Respondent. The  
7 Accusation, together with all other statutorily required documents, was duly served on  
8 Respondent on February 2, 2000 and Respondent timely filed his Notice of Defense contesting  
9 the Accusation. A copy of Accusation No. 2236-B is attached as Exhibit A and is incorporated  
10 herein by reference.

11                                   ADVISEMENT AND WAIVERS

12                   5.       Respondent has carefully read and discussed with his counsel the nature of  
13 the charges and allegations in the Accusation and the effects of this Stipulated Settlement and  
14 Disciplinary Order.

15                   6.       Respondent is fully aware of his legal rights in this matter, including the  
16 right to a hearing on the charges and allegations in the Accusation, the right to be represented by  
17 counsel at his own expense, the right to confront and cross-examine the witnesses against him,  
18 the right to present evidence and to testify on his own behalf, the right to the issuance of  
19 subpoenas to compel the attendance of witnesses and the production of documents, the right to  
20 reconsideration and court review of an adverse decision, and all other rights accorded by the  
21 California Administrative Procedure Act and other applicable laws.

22                   7.       Respondent voluntarily, knowingly and intelligently waives and gives up  
23 each and every right set forth above.

24                                   CULPABILITY

25                   8.       Respondent understands that the charges and allegations in the  
26 Accusation, if proven at a hearing, constitute cause for imposing discipline upon his Pharmacist's  
27 license.

28                   9.       Respondent admits the truth of each and every charge and allegation in

1 Accusation No. 2236-B.

2 10. Respondent agrees that his Pharmacist's license is subject to discipline and  
3 he agrees to be bound by the Board's imposition of discipline as set forth in the Order below.

4 CONTINGENCY

5 11. This stipulation shall be subject to the approval of the Board. Respondent  
6 understands and agrees that Board of Pharmacy's staff and counsel for Complainant may  
7 communicate directly with the Board regarding this stipulation and settlement, without notice to  
8 or participation by Respondent or his counsel. If the Board fails to adopt this stipulation as its  
9 Order, except for this paragraph the Stipulated Settlement and Disciplinary Order shall be of no  
10 force or effect, it shall be inadmissible in any legal action between the parties, and the Board  
11 shall not be disqualified from further action in this matter by virtue of its consideration of this  
12 stipulation.

13 12. The parties agree that facsimile copies of this Stipulated Settlement and  
14 Disciplinary Order, including facsimile signatures thereto, shall have the same force and effect as  
15 the original Stipulated Settlement and Disciplinary Order and signatures.

16 13. In consideration of the foregoing admissions and stipulations, the parties  
17 agree that the Board shall, without further notice or formal proceeding, issue and enter the  
18 following Disciplinary Order:

19  
20 DISCIPLINARY ORDER

21 **IT IS HEREBY ORDERED** that Original Pharmacist License Number RPH  
22 39728 issued to Respondent Chu Huu Vu is revoked. Pursuant to Business and Professions  
23 Code section 4309, Respondent shall be prohibited from filing a petition for reinstatement of his  
24 license or applying for relicensure by the Board for at least three (3) years from the effective date  
25 of this Order. Respondent must make full payment for cost recovery to the Board in the amount  
26 of \$8,000.00 (Eight Thousand Dollars) and submit proof that full and complete payment has  
27 been made, as a condition precedent to any petition for reinstatement of his license or future  
28 application Respondent may make to the Board for relicensure by the Board.

ACCEPTANCE

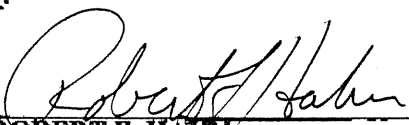
I have carefully read the above Stipulated Settlement and Disciplinary Order, have fully discussed the terms and conditions and other matters contained therein with my attorney Robert F. Hahn, and I understand the effect this stipulation will have on my Pharmacist's license. I enter into this Stipulated Settlement voluntarily, knowingly and intelligently and agree to be bound by the Disciplinary Order and Decision of the Board of Pharmacy. I further agree that a facsimile copy of this Stipulated Settlement and Disciplinary Order, including facsimile copies of signatures, may be used with the same force and effect as the originals.

DATED: Nov. 1<sup>st</sup>, 2000

  
CHU HUU VU  
Respondent

I have read and fully discussed with Respondent Chu Huu Vu the terms and conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order and approve its form and content.

DATED: 11/13/2000


  
ROBERT F. HAHN  
Attorney for Respondent

ENDORSEMENT

The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully submitted for consideration by the Board of Pharmacy of the Department of Consumer Affairs.

DATED: 12/7/2000

BILL LOCKYER, Attorney General  
of the State of California

  
LINDA K. SCHNEIDER  
Deputy Attorney General  
Attorneys for Complainant

**BEFORE THE  
BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Chu Huu Vu  
C/O Healthcare Pharmacy  
P.O. Box 712663  
San Diego, CA 92171

License No. RPH 39728

Respondent.

Case No. 2236-B

OAH No. L-2000050335

**DECISION AND ORDER**

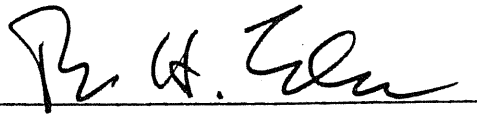
The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy of the Department of Consumer Affairs as its Decision in the above entitled matter.

This Decision shall become effective on March 6, 2001.

It is so ORDERED February 5, 2001.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By



ROBERT H. ELSNER  
Board President

**Exhibit A:**  
**Accusation in Case No. 2236-B**

1 BILL LOCKYER, Attorney General  
of the State of California  
2 LINDA K. SCHNEIDER  
Deputy Attorney General,  
3 State Bar No. 101336  
Department of Justice  
4 110 West A Street, Suite 1100  
Post Office Box 85266  
5 San Diego, California 92186-5266  
Telephone: (619) 645-3037

6 Attorneys for Complainant  
7

8 BEFORE THE  
BOARD OF PHARMACY  
9 DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA  
10

11 In the Matter of the Accusation )  
Against: )

NO. 2 2 3 6 - B

12 Chu Huu Vu )  
13 3156 Clairemont Drive )  
San Diego, CA 92117 )  
14 License No. RPH 39728 )  
15 )  
16 )

ACCUSATION

17 Hoang Mau Nguyen )  
18 aka, Harry Nguyen )  
7538 Clear Sky Road )  
San Diego, CA 92120 )  
19 License No. TCH 9544 )  
20 )

Respondents. )  
21 )

22  
23 Complainant Patricia F. Harris, as causes for  
24 disciplinary action, alleges:  
25

26 PARTIES

27 1. Complainant is the Executive Officer of the  
28 California State Board of Pharmacy ("Board") and makes and files

1 this accusation solely in her official capacity.

2 License Status

3 2. On or about August 7, 1986, the Board issued  
4 Original Pharmacist-License Number RPH 39728 to Chu Huu Vu to  
5 practice pharmacy in California. That registration is in full  
6 force and effect until January 31, 2002. Chu Huu Vu was the PIC  
7 of Ulric Pharmacy from October 10, 1991 to June 30, 1993, at  
8 which time he disassociated from Ulric Pharmacy.<sup>1/</sup> Chu Huu Vu  
9 was the PIC of Delta Pharmacy from November 17, 1993 until  
10 December 15, 1993, at which time he disassociated from Delta  
11 Pharmacy.<sup>2/</sup>

12 3. On or about September 9, 1993, the Board issued  
13 Original Pharmacy Technician Registration Number TCH 9544 to  
14 Harry Hoang Mau Nguyen to act as a pharmacy technician in  
15 California. The registration is in full force until its  
16 expiration date of March 31, 2001. Hoang Mau Nguyen was an owner  
17 of Ulric Pharmacy from January 15, 1991 until October 19, 1993  
18 when he disassociated from Ulric Pharmacy.

19

20 JURISDICTION

21 4. This Accusation refers to the following statutes of  
22 the California Business and Professions Code ("Code"):

23

24 1. Ulric Pharmacy was sold and no longer has a registration  
25 number subject to renewal. Therefore, pursuant to Code section  
26 118(b), no charges are made against Ulric Pharmacy in this  
Accusation.

27 2. Delta Pharmacy was closed and no longer has a  
28 registration number subject to renewal. Therefore, pursuant to  
Code section 118(b), no charges are made against Delta Pharmacy  
in this Accusation.



1           A. Section 4300 provides, in part, that every license  
2 issued may be suspended or revoked.

3           B. Section 4301 provides, in part, that "the board  
4 shall take action against any holder of a license who is  
5 guilty of unprofessional conduct or whose license has been  
6 procured by fraud or misrepresentation or issued by mistake.  
7 Unprofessional conduct shall include, but is not limited  
8 to:"

9           . . . .  
10           "(f) The commission of any act involving moral  
11 turpitude, dishonesty, fraud, deceit, or corruption, whether  
12 the act is committed in the course of relations as a  
13 licensee or otherwise, and whether the act is a felony or  
14 misdemeanor or not.

15           . . . .  
16           "(l) The conviction of a crime substantially related to  
17 the qualifications, functions, and duties of a licensee  
18 under this chapter. . . ."

19           C. Section 118(b) provides:

20           "The suspension, expiration, or forfeiture by operation  
21 of law of a license issued by a board in the department, or  
22 its suspension, forfeiture, or cancellation by order of the  
23 board or by order of a court of law, or its surrender  
24 without the written consent of the board, shall not, during  
25 any period in which it may be renewed, restored, reissued,  
26 or reinstated, deprive the board of its authority to  
27 institute or continue a disciplinary proceeding against the  
28 licensee upon any ground provided by law or to enter an

1 order suspending or revoking the license or otherwise taking  
2 disciplinary action against the licensee on any such  
3 ground."

4 D. Section 4307 provides:

5 "(a) Any person who has been denied a license or whose  
6 license has been revoked or is under suspension, or who has  
7 failed to renew his or her license while it was under  
8 suspension, or who has been a manager, administrator, owner,  
9 member, officer, director, associate, or partner of any  
10 partnership, corporation, firm, or association whose  
11 application for a license has been denied or revoked, is  
12 under suspension or has been placed on probation, and while  
13 acting as the manager, administrator, owner, member,  
14 officer, director, associate, or partner had knowledge of or  
15 knowingly participated in any conduct for which the license  
16 was denied, revoked, suspended, or placed on probation,  
17 shall be prohibited from serving as a manager,  
18 administrator, owner, member, officer, director, associate,  
19 or partner of a licensee as follows:

20 (1) Where a probationary license is issued or where an  
21 existing license is placed on probation, this  
22 prohibition shall remain in effect for a period not to  
23 exceed five years.

24 (2) Where the license is denied or revoked, the  
25 prohibition shall continue until the license is issued  
26 or reinstated. ...."

27 E. Section 125.3 provides, in part, that, "the board  
28 may request the administrative law judge to direct any

1        licentiate found to have committed a violation or violations  
2        of the licensing act, to pay a sum not to exceed the  
3        reasonable costs of the investigation and enforcement of the  
4        case."

5                5.    This Accusation is also made in reference to the  
6        following statutes of the United States Code:

7                A.    Title 18 Section 1341 provides, in part, that:

8                "Whoever, having devised or intending to devise any  
9        scheme or artifice to defraud, or for obtaining money or  
10       property by means of false or fraudulent pretenses . . .  
11       places in any post office or authorized depository for mail  
12       matter, any matter or thing whatever to be sent or delivered  
13       by the Postal Service . . . shall be fined under this title  
14       or imprisoned not more than five years, or both . . ."

15               B.    Title 18 Section 1342 provides, in part, that:

16               "Whoever, for the purpose of conducting, promoting, or  
17       carrying on by means of the Postal Service, any scheme or  
18       device mentioned in section 1341 of this title or any other  
19       unlawful business, uses or assumes, or requests to be  
20       addressed by, any fictitious, false, or assumed title, name,  
21       or address or name other than his own proper name . . .  
22       shall be fined under this title or imprisoned not more than  
23       five years, or both."

24               C.    Title 18 Section 1344 provides:

25               "Whoever knowingly executes, or attempts to execute, a  
26       scheme or artifice -

27               (1) to defraud a financial institution; or

28               (2) to obtain any of the moneys, funds, credits,

1 assets, securities, or other property owned by, or under the  
2 custody or control of, a financial institution, by means of  
3 false or fraudulent pretenses, representations, or promises;  
4 shall be fined not more than \$1,000,000 or imprisoned  
5 not more than 30 years, or both."

6 D. Title 18 Section 1961(4) defines "enterprise" under  
7 Chapter 96 - "Racketeer Influenced And Corrupt  
8 Organizations," as follows:

9 "enterprise" includes any individual, partnership,  
10 corporation, association, or other legal entity, and any  
11 union or group of individuals associated in fact although  
12 not a legal entity."

13 E. Title 18 Section 1962(d) makes it a criminal  
14 offense to conspire in any racketeering activity.

15 F. Title 18 Section 1963 provides penalties for  
16 violation of section 1962 which include, a fine of not more  
17 than \$25,000, imprisonment of not more than 20 years, or  
18 both, and forfeiture to the United States of any interest  
19 acquired or maintained in violation of section 1962.

20 G. Title 26 Section 7206(1) provides that,

21 "Any person who willfully makes and subscribes any  
22 return, statement, or other document, which contains or is  
23 verified by a written declaration that it is made under the  
24 penalties of perjury, and which he does not believe to be  
25 true and correct as to every material matter shall be guilty  
26 of a felony and, upon conviction thereof, shall be fined not  
27 more than \$100,000 (\$500,000 in the case of a corporation),  
28 or imprisoned not more than 3 years, or both, together with

1 the costs of prosecution."

2  
3 FIRST CAUSE OF ACTION

4 RESPONDENT, CHU HUU VU

5 [Section 4301(1) - Conviction of a Crime

6 Substantially Related to the Practice of Pharmacy]

7 6. A criminal indictment was filed against Chu Huu Vu  
8 and Hoang Mau Nguyen, inter alia, in the United States District  
9 Court, Southern District of California under case number  
10 97CRO934-K. The indictment was subsequently amended by a  
11 Superceding Indictment bearing the same case number.

12 7. Pursuant to that Superceding Indictment, on or about  
13 January 16, 1998 in the United States District Court, Southern  
14 District of California, respondent, Chu Huu Vu, pled guilty and  
15 was sentenced for violation of 18 USC 1341.2 [Aiding and Abetting  
16 Mail Fraud - Count 23, 24 and 25 of the indictment].

17 8. Respondent, CHU HUU VU was sentenced to the  
18 following:

- 19 • Penalty assessment of \$150.00 pursuant to 18 USC  
20 3003
- 21 • Imprisonment of 24 months
- 22 • Upon release from imprisonment, supervised release  
23 for 3 years
- 24 • While on supervised release, not commit another  
25 federal, state or local crime and comply with the  
26 standard conditions adopted by the court. Pay  
27 restitution obligation remaining unpaid at the  
28 commencement of supervised release.

1           9. The facts surrounding the conviction were:

2           From January 1991 to November 1993, Dung My Thi Nguyen  
3 and Due Huu Nguyen were partners and true owners of Ulric  
4 Pharmacy, and were co-signatories on the Ulric Pharmacy bank  
5 account. Hoang Mau Nguyen was a paper co-owner with Dung Thi  
6 Nguyen of Ulric Pharmacy, and he signed claim forms that were  
7 submitted to the Medi-Cal Program. Dat Tat Nguyen was the de  
8 facto on-site manager of Ulric Pharmacy, and he was responsible  
9 for reviewing the billing information entered into Ulric  
10 Pharmacy's computer, which in turn generated claims submitted to  
11 Medi-Cal. Chu Huu Vu was the pharmacist-in-charge (PIC) at Ulric  
12 Pharmacy, and was responsible for the dispensing and labeling of  
13 prescription medications.

14           10. Due Huu Nguyen and Dung My Thi Nguyen had  
15 ownership interests in Primary Medical Clinic, which referred all  
16 its prescriptions exclusively to Dan Rx and Ulric Pharmacies.

17           11. Between January 1991 and November 1993,  
18 respondent, Chu Huu Vu, conspired with Dung My Thi Nguyen, Due  
19 Huu Nguyen, Dat Tat Nguyen and Hoang Mau Nguyen to submit  
20 fraudulent claims to the Medi-Cal program from Ulric Pharmacy.  
21 The claims were fraudulent in that they overstated the amounts of  
22 medications actually dispensed or prescribed for the patients.  
23 As a result of the scheme and conspiracy, through which Ulric  
24 Pharmacy fraudulently obtained from Medi-Cal more than \$160,000,  
25 Medi-Cal sent the following checks through the United States mail  
26 to Ulric Pharmacy to pay for fraudulent claims:

27           a. Check number 34359887, dated April 23, 1992 (as was  
28 further described in Count 23 of the Superceding Indictment)

1           b. Check number 38057881, dated February 4, 1993 (as  
2 was further described in Count 24 of the Superceding Indictment)

3           c. Check number 38192091, dated February 11, 1993 (as  
4 was further described in Count 25 of the Superceding Indictment)

5           12. Respondent, Chu Huu Vu, has subjected his license  
6 to discipline for violation of Code section 4301(1), as is more  
7 particularly set forth above, by suffering a criminal conviction  
8 for violation of 18 USC 1341.2 [Aiding and Abetting Mail Fraud -  
9 Count 23, 24 and 25 of the Superceding Indictment] which is a  
10 crime substantially related to the practice of pharmacy.

11                           SECOND CAUSE OF ACTION

12                   **RESPONDENT, HOANG MAU NGUYEN, aka HARRY NGUYEN**

13                           **[Section 4301(1) - Conviction of a Crime**

14                           **Substantially Related to the Practice of Pharmacy]**

15           13. A criminal indictment was filed against Chu Huu  
16 Vu and Hoang Mau Nguyen, inter alia, in the United States  
17 District Court, Southern District of California under case number  
18 97CRO934-K. The indictment was subsequently amended by a  
19 Superceding Indictment bearing the same case number.

20           14. Pursuant to that Superceding Indictment, on or  
21 about January 16, 1998 in the United States District Court,  
22 Southern District of California, respondent, Hoang Mau Nguyen,  
23 aka Harry Nguyen, pled guilty and was sentenced for violation of  
24 18 USC 1341.2 [Aiding and Abetting Mail Fraud - Count 23, 24 and  
25 25 of the indictment].

26           15. Respondent, Hoang Mau Nguyen, aka Harry Nguyen,  
27 was sentenced to the following:

- 28                   • Forfeiture of \$58,000.00 cash [jointly with co-

1 defendant, Dat Tat Nguyen] or forfeiture of real  
2 property located at 7538 Clear Sky Road, San  
3 Diego, California 92120

- 4 • Penalty assessment of \$200.00 pursuant to 18 USC  
5 3003
- 6 • Imprisonment of 14 months
- 7 • Upon release from imprisonment, Supervised Release  
8 for 3 years
- 9 • While on supervised release, not commit another  
10 federal, state or local crime and comply with the  
11 standard conditions adopted by the court. Pay  
12 restitution obligation remaining unpaid at the  
13 commencement of supervised release.

14 16. The facts which gave rise to the conviction were  
15 as follows:

16 From January 1991 to November 1993, Dung My Thi Nguyen  
17 and Due Huu Nguyen were partners and true owners of Ulric  
18 Pharmacy, and were co-signatories on the Ulric Pharmacy bank  
19 account. Hoang Mau Nguyen was a paper co-owner with Dung My Thi  
20 Nguyen of Ulric Pharmacy, and he signed claim forms that were  
21 submitted to the Medi-Cal Program. Dat Tat Nguyen was the de  
22 facto on-site manager of Ulric Pharmacy, and he was responsible  
23 for reviewing the billing information entered into the Ulric  
24 Pharmacy's computer, which in turn generated claims submitted to  
25 Medi-Cal. Chu Huu Vu was the pharmacist-in-charge (PIC) at Ulric  
26 Pharmacy, and was responsible for the dispensing and labeling of  
27 prescription medications.

28 17. Due Huu Nguyen and Dung My Thi Nguyen had



1 ownership interests in Primary Medical Clinic, which referred all  
2 its prescriptions exclusively to Dan Rx and Ulric Pharmacies.

3 18. Between January 1991 and November 1993,  
4 respondent, Hoang Mau Nguyen, conspired with others to submit  
5 fraudulent claims to the Medi-Cal program from Ulric Pharmacy.  
6 The claims were fraudulent in that they overstated the amounts of  
7 medications actually dispensed or prescribed for the patients.  
8 As a result of the scheme and conspiracy, Medi-Cal sent the  
9 following checks through the United States mail to Ulric Pharmacy  
10 to pay for fraudulent claims:

11 a. Check number 34359887, dated April 23, 1992 (as was  
12 further described in Count 23 of the Superceding Indictment)

13 b. Check number 38057881, dated February 4, 1993 (as  
14 was further described in Count 24 of the Superceding Indictment)

15 c. Check number 38192091, dated February 11, 1993 (as  
16 was further described in Count 25 of the Superceding Indictment)

17 19. Between May 22, 1991 and March 31, 1992,  
18 respondent, Hoang Mau Nguyen, received \$6,519 from the Employment  
19 Development Department of the state of California as unemployment  
20 compensation. During that time, however, respondent, Hoang Mau  
21 Nguyen, worked at Ulric Pharmacy and received a salary of  
22 approximately \$250/week. He never disclosed to EDD that he was  
23 employed by Ulric Pharmacy. Had EDD known that respondent, Hoang  
24 Mau Nguyen, was employed by Ulric Pharmacy and was receiving a  
25 weekly salary of approximately \$250/week, he would have been  
26 deemed ineligible to receive the unemployment benefits.

27 20. In September, 1992, respondent, Hoang Mau Nguyen,  
28 applied for a home loan from Great Western Bank to purchase a

residence at 7538 Clear Sky Road, San Diego, California. In that application, respondent, Hoang Mau Nguyen, knowingly falsely stated that he had been employed by Dan Rx Pharmacy for three years as the "billing controller," and overstated his income. He also falsely stated that he had been in the pharmacy business for six years, when in fact he had only been in the United States for less than three years.

21. Due Nguyen also signed Danh Nguyen's name on the loan application, purporting to verify that Hoang Mau Nguyen was employed at Dan Rx Pharmacy.

22. As a result of the above false statements, respondent, Hoang Mau Nguyen, fraudulently received a loan in the amount of \$157,000 from Great Western Bank. Had Great Western Bank known that these statements were false, it would not have funded the loan.

23. Respondent, Hoang Mau Nguyen, aka Harry Nguyen, has subjected his license to discipline for violation of Code section 4301(1), as is more particularly set forth above, by suffering criminal convictions for violation of 18 USC 1341 and 1342 [Aiding and Abetting Mail Fraud - Counts 23, 24 and 25 of the Superceding Indictment] and 18 USC 1342 and 1344 [Aiding and Abetting Bank Fraud - Count 32 of the indictment] which are crimes substantially related to the practice of pharmacy.

**PRAYER**

WHEREFORE, complainant requests that the Board hold a hearing on the matters alleged herein, and that following said hearing, the Board issue a decision:

1. Revoking or suspending License Number RPH 39728 heretofore issued to respondent, Chu Huu Vu.
2. Issuing an order prohibiting respondent, Chu Huu Vu, from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee pursuant to Code section 4307.
3. Revoking or suspending Registration Number TCH 9544 heretofore issued to respondent, Hoang Mau Nguyen, aka Harry Nguyen.
4. Issuing an order prohibiting respondent, Hoang Mau Nguyen, aka Harry Nguyen, from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee pursuant to Code section 4307.
5. Directing respondents, and each of them, to pay to the Board a reasonable sum for its investigative and enforcement costs of this action; and
6. Taking such other and further action as the Board deems appropriate to protect the public health, safety and welfare.

DATED: 1/19/00

P. J. Harris  
Patricia Florian Harris  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California

Complainant

03583110-SD1999AD0463